

REPORT TO CONGRESS ON THE NATIONAL EMER-
GENCIES WITH RESPECT TO THE FEDERAL REPUB-
LIC OF YUGOSLAVIA (SERBIA AND MONTENEGRO)
AND KOSOVO

COMMUNICATION

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A REPORT ON DEVELOPMENTS CONCERNING THE NATIONAL
EMERGENCY WITH RESPECT TO THE FEDERAL REPUBLIC OF
YUGOSLAVIA (SERBIA AND MONTENEGRO) AND KOSOVO, PURSU-
ANT TO 50 U.S.C. 1703(c)



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THE WHITE HOUSE,
Washington, December 20, 2000.

Hon. J. DENNIS HASTERT,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c) and section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1703(c), I transmit herewith a 6-month periodic report on the national emergency with respect to the Yugoslavia (Serbia and Montenegro) emergency declared in Executive Order 12808 on May 30, 1992, and with respect to the Kosovo emergency declared in Executive Order 13088 on June 9, 1998.

Sincerely,

WILLIAM J. CLINTON.

REPORT TO CONGRESS ON THE NATIONAL EMERGENCIES WITH RESPECT TO THE FEDERAL REPUBLIC OF YUGOSLAVIA (SERBIA AND MONTENEGRO) AND KOSOVO

On May 30, 1992, by Executive Order 12808, President Bush declared a national emergency to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the actions and policies of the Governments of Serbia and Montenegro, blocking all property and interests in property of those Governments. President Bush took additional measures to prohibit trade and other transactions with the Federal Republic of Yugoslavia (Serbia and Montenegro) (the "FRY (S&M)"), by Executive Orders 12810 and 12831, issued on June 5, 1992, and January 15, 1993, respectively.

On April 25, 1993, I issued Executive Order 12846, blocking the property and interests in property of all commercial, industrial, or public utility undertakings or entities organized or located in the FRY (S&M), and prohibiting trade-related transactions by U.S. persons involving those areas of the Republic of Bosnia and Herzegovina controlled by the Bosnian Serb forces and the United Nations Protected Areas in the Republic of Croatia. On October 25, 1994, because of the actions and policies of the Bosnian Serbs, I expanded the scope of the national emergency by issuance of Executive Order 12934.

On November 22, 1995, the United Nations Security Council passed Resolution ("UNSCR") 1022, immediately and indefinitely suspending U.N. economic sanctions against the FRY (S&M). On October 1, 1996, the United Nations passed UNSCR 1074, terminating U.N. sanctions against the FRY (S&M) and the Bosnian Serbs in light of the elections that took place in Bosnia and Herzegovina on September 14, 1996. Both UNSCR 1022 and UNSCR 1074, however, provided that funds and assets previously blocked pursuant to sanctions against the FRY (S&M) that are subject to claims and encumbrances, or that are the property of persons deemed insolvent, shall remain blocked until "released in accordance with applicable law." This provision was implemented in the United States on December 27, 1995, by Presidential Determination No. 96-7, which directed the Secretary of the Treasury to suspend the application of sanctions on the FRY (S&M) and to continue to block property previously blocked.

On June 9, 1998, by Executive Order 13088, I declared a new and separate national emergency to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the actions and policies of the Governments of the FRY (S&M) and the Republic of Serbia with respect to Kosovo. Executive Order 13088, with certain exceptions, blocked all property and interests in property of the Governments of the FRY (S&M), the Republic of Serbia, and the Republic of Monte-

negro within the United States or within the possession or control of U.S. persons, and prohibited all new investment in the territory of the Republic of Serbia by U.S. persons, and the approval or other facilitation by U.S. persons of other persons' new investment in the territory of the Republic of Serbia.

On April 30, 1999, I took additional steps with respect to the national emergency declared in Executive Order 13088 by issuing Executive Order 13121, which became effective at 12:01 a.m., EDT, May 1, 1999. Executive Order 13121 continues to block all property and interests in property of the Governments of the FRY (S&M), the Republic of Serbia, and the Republic of Montenegro within the United States or within the possession or control of U.S. persons. The Order also revoked section 2 of Executive Order 13088, which had permitted U.S. persons to engage in certain financial transactions within the territory of the FRY (S&M). Executive Order 13121 added a new section 2 to Executive Order 13088, which prohibits trade transactions involving the FRY (S&M).

On October 12, 2000, in support of Yugoslavia's newly elected leaders, I directed the Department of the Treasury and the Department of State to take immediate steps to begin lifting trade and financial sanctions imposed against Serbia in 1998 and 1999, except those targeted against members of the former regime. This directive included, with immediate effect, lifting of the oil embargo and flight ban.

The present report is submitted pursuant to 50 U.S.C. 1641(c) and 1703(c) and covers the period from May 30 through November 29, 2000. It discusses Administration actions and expenses directly related to the exercise of powers and authorities conferred by the declaration of a national emergency in Executive Order 12808 as modified by Executive Order 12810, Executive Order 12831, Executive Order 12846, and Executive Order 12934, the declaration of a national emergency in Executive Order 13088, as revised by Executive Order 13121, and my October 12 statement on the lifting of sanctions against Serbia.

1. The declaration of the national emergency in Executive Order 12808 on May 30, 1992, and the declaration of a national emergency in Executive Order 13088 on June 9, 1998, were made pursuant to the authority vested in the President by the Constitution and laws of the United States, including the International Emergency Economic Powers Act ("IEEPA") (50 U.S.C. 1701 et seq.), the National Emergencies Act (50 U.S.C. 1601 et seq.), and section 301 of title 3 of the United States Code. Additional sanctions set forth in related Executive orders were imposed pursuant to the authority vested in the President by the Constitution and laws of the United States, including the statutes cited above, sections 1114 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1514), and section 5 of the United Nations Participation Act of 1945 (22 U.S.C. 287c).

2. The Office of Foreign Assets Control ("OFAC"), acting under authority delegated by the Secretary of the Treasury, implemented the sanctions imposed under the foregoing statutes and Executive orders in the Federal Republic of Yugoslavia (Serbia and Montenegro) and Bosnia Serb-Controlled Areas of the Republic of Bosnia and Herzegovina Sanctions Regulations, 31 CFR Part 585 (the "Regulations") and the Federal Republic of Yugoslavia (Serbia and

Montenegro) Kosovo Sanctions Regulations, 31 CFR Part 586 (the "Kosovo Sanctions Regulations"). On November 8, 1999, pursuant to the Kosovo Sanctions Regulations, OFAC published in the Federal Register changes to appendix A to 31 CFR Chapter V, inter alia, adding the names of 650 entities determined to be state- or socially-owned entities organized or located in the FRY (S&M) and 76 individuals determined to be acting for or on behalf of the Governments of the FRY (S&M) and/or the Republic of Serbia by virtue of the high-level positions they hold in those governments (64 Fed. Reg. 60660).

On June 10, 1998, OFAC issued General License No. 1, excluding the Government of the Republic of Montenegro from the blocking provisions of the Kosovo sanctions. On May 5, 1999, OFAC issued a Notice revoking provisions of the Kosovo Sanctions Regulations that were inconsistent with the additional sanctions imposed in Executive Order 13121. By the Notice of May 5, 1999, OFAC also issued General License No. 2 authorizing certain trade and trade-related transactions involving the Republic of Montenegro that would otherwise be prohibited by Executive Order 13088, as revised.

On May 20, 1999, OFAC issued General License No. 3, authorizing all transactions ordinarily incident to the exportation of goods (including petroleum and petroleum products), software, or technology (including technical data) from the United States or reexportation of U.S.-origin goods, software, or technology from a foreign country to any person in the FRY (S&M), to the Government of the FRY (S&M), or to the Government of the Republic of Serbia, provided that the following terms and conditions, among others, are met: (1) the exportation or reexportation is licensed or otherwise authorized by the Department of Commerce under the provisions of the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.) and IEEPA; and (2) the exportation or reexportation is financed by a financial institution in a third country that is neither a U.S. person nor a person whose property is blocked pursuant to the Kosovo Sanctions Regulations, or by cash payment in advance, or by open account financing not to exceed 90 days net.

On August 19, 1999, OFAC issued General License No. 4, authorizing, subject to specific terms and conditions, certain trade and trade-related transactions involving the territory of Kosovo that would otherwise be prohibited by Executive Order 13088, as revised. General License No. 4 also authorizes all new investment by U.S. persons in the territory of Kosovo and the approval or other facilitation by U.S. persons of other persons' new investment in the territory of Kosovo.

To implement the President's directive on the lifting of sanctions against Serbia, on October 12, OFAC issued General Licenses No. 5 and No. 6. General License No. 5 authorizes air transportation-related transactions involving the FRY (S&M). This authorization includes: (1) the provision of air transportation services, directly or indirectly, between the United States and the FRY (S&M); (2) the provision of ground support services by Judošlovenski Aerotransport ("JAT") in the FRY (S&M) or in any third country; (3) the operation of charter flights to or from the FRY (A&M), except for a charter flight operated by or for JAT; and (4) the pay-

ment of charges for services rendered and all fees assessed in connection with taking off from, landing in, or overflying the FRY (S&M). General License No. 5 does not authorize any transactions or dealings, directly or indirectly, by a U.S. person relating to JAT taking off from, landing in, or overflying the United States. Finally, General License No. 5 does not excuse a person from complying with other applicable laws, including, but not limited to, title 49 of the U.S. Code and regulations issued thereunder, as well as those laws governing the importation, exportation, reexportation, sale or supply of goods, software, technology (including technical data), or services.

General License No. 6 authorizes transactions relating to the exportation of petroleum and petroleum products to the FRY (S&M). All transactions or dealings relating to the exportation, reexportation, sale, or supply, directly or indirectly, from the United States, or by a U.S. person, wherever located, of any petroleum or petroleum products to the FRY (S&M) are authorized. General License No. 6 does not authorize: (1) any transactions or dealings, directly or indirectly, with Jugopetrol or Nis-Nafta Industrija Srebije; (2) any transactions or dealings, by a U.S. person with any financial institution located or headquartered in the Republic of Serbia; or (3) any debit to a blocked account or setoff against blocked property. Moreover, General License No. 6 does not excuse a person from complying with other applicable U.S. laws and regulations, including, but not limited to, those governing the exportation, reexportation, sale or supply of goods, software, technology (including technical data), or services.

3. Over the past four years, the Departments of State and the Treasury have worked closely with European Union member states and other U.N. member nations to implement the provisions of UNSCR 1022 and UNSCR 1074. In the United States, retention of statutory blocking authority pursuant to the extension of a national emergency helps provide a framework for administration of an orderly claims settlement process. This accords with past policy and practice with respect to the suspension of sanctions regimes.

4. During this reporting period, OFAC issued a total of 59 specific licenses pursuant to the Regulations. Specific licenses were issued to: (1) unblock wire transfers involving generally small amounts of individuals' purely personal funds; (2) authorize the settlement of pending legal actions and receipt of payment for legal services; (3) authorize certain transactions relating to air safety policy; and (4) authorize certain administrative transactions by other United States government agencies. No additional OFAC registrations of nongovernmental agencies providing humanitarian assistance have been made since my last report. Thus, the total of such registrations since the inception of the program remains at 50.

During the past six months, OFAC has continued to oversee the maintenance of FRY (S&M) accounts blocked pursuant to 31 CFR Part 585, and records with respect to: (1) liquidated tangible assets and personalty of the fifteen blocked U.S. subsidiaries of entities organized in the FRY (S&M); (2) the blocked personalty, files, and records of the two Serbian banking institutions in New York previously placed in secure storage; and (3) remaining blocked FRY

(S&M) tangible property, including real estate. Pursuant to the Kosovo Sanctions Regulations, 31 CFR Part 586, OFAC blocked 146 transactions totaling more than \$3.7 million during this reporting period. Most of the blockings were of funds transfers originating from, or destined for, Serbian banks. In addition, 369 funds transfers totaling more than \$3.8 million were rejected by U.S. banking institutions as contrary to U.S. sanctions.

5. OFAC has continued to work closely with the U.S. Customs Service and other cooperating agencies to investigate alleged violations of the sanctions imposed pursuant to Executive Order 12808, as modified, and Executive Order 13088, as revised.

On February 16, 2000, a resident alien, along with his company, was named in a 40-count indictment in the Central District of California. The indictment alleged unauthorized sales and exportation from the United States of aircraft parts to Jugoslovenski Aerotransport ("JAT") in the FRY (S&M) and further alleged conspiracy with U.S. persons to acquire U.S.-manufactured aircraft parts from companies such as Boeing, Pratt & Whitney, Honeywell, and others for resale and exportation to JAT. The defendant shipped the aircraft parts to JAT in third countries with the knowledge that they would be transshipped to the FRY (S&M) without authorization by the United States Government. Trial has been scheduled for February 2001.

On October 10, 2000, a New York corporation pleaded guilty in the Southern District of New York to one count of exporting carbon black from the United States to Serbia in violation of IEEPA and the Regulations. Carbon black is a component in the manufacture of tires. This action was the culmination of a lengthy and difficult investigation by the U.S. Customs Service that began in 1993. The defendant has stipulated in a plea agreement to pay a criminal fine of between \$40,000 and \$60,000 for its violation of IEEPA and the FRY (S&M) sanctions.

Since my last report, OFAC has collected six civil monetary penalties totaling more than \$80,000 for violations of the sanctions. These violations involved prohibited payments either to the Government of the FRY (S&M), persons in the FRY (S&M), or to blocked entities owned or controlled by the Government of the FRY (S&M), as well as the export of unauthorized services to the FRY (S&M). The violators included three U.S. financial institutions, one company, one organization, and one individual. An additional two cases are undergoing penalty action for violation of the Regulations, and an additional 46 cases are undergoing penalty action for violation of the Kosovo Sanctions Regulations.

6. The expenses incurred by the Federal Government in the six-month period from May 30 through November 29, 2000 that are directly attributable to the declaration of the national emergencies in Executive Orders 12808 and 13088 are estimated at approximately \$700,000, most of which represents wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in OFAC, the Chief Counsel's Office (Office of Foreign Assets Control), and the U.S. Customs Service), the Department of State, the National Security Council, and the Department of Commerce.

7. Serbia's September 24, 2000, elections unleashed a chain of events leading to the dramatic end of the Milosevic dictatorship a few days later. Following confirmation of the victory of democratic forces, on October 12, 2000, I directed the Departments of Treasury and State to remove the flight ban and oil embargo and take immediate steps to lift remaining sanctions. We have a strong interest in supporting Yugoslavia's newly elected leaders as they work to build a truly democratic society. Further, we will ensure that such sanctions-lifting measures do not allow supporters of Milosevic to continue the systematic theft of resources that have marked the last thirteen years.

I shall continue to exercise the powers at my disposal with respect to the measures against the former Government of the FRY (S&M) and the former Government of the Republic of Serbia as long as these measures are appropriate, and will continue to report periodically to the Congress on significant developments pursuant to 50 U.S.C. 1703(c).